

AMENDED IN SENATE APRIL 25, 2005

AMENDED IN SENATE APRIL 18, 2005

**SENATE BILL**

**No. 954**

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**Introduced by ~~Senator Figueroa~~ *Senators Figueroa and Dutton***

February 22, 2005

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An act to add Section 12104 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 954, as amended, Figueroa. Information technology goods and services: procurement.

Existing law sets forth the requirements for the acquisition of information technology goods and services by the state, and requires all contracts for the acquisition of those goods and services to be made by or under the supervision of the Department of General Services, with expenditures in this regard subject to the review and approval of the Department of Finance.

This bill makes certain findings and states the intent of the Legislature to reform the manner in which state agencies procure information technology goods and services. This bill would require all state agencies and departments to conform with specified practices and guidelines in the procurement of information technology goods and services.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. The Legislature finds and declares all of the  
2     following:

1 (a) The State of California depends on information technology  
2 (IT) goods and services to accomplish its legally mandated core  
3 business functions and public services and it is in the best interest  
4 of the state to procure these services according to best practices,  
5 thereby rationalizing the process and providing a consistent basis  
6 for communication and decisionmaking.

7 (b) IT improves the functioning of government by providing  
8 increased public access and enhanced customer service.

9 (c) Conducting business with technology industry vendors in a  
10 professional manner with an attitude of cooperative, direct, and  
11 straightforward communication serves the best interests of the  
12 State of California and its citizens for the following reasons:

13 (1) Vendors can better respond to the state if published  
14 business and technical requirements are clear.

15 (2) An efficient and effective procurement process saves the  
16 state valuable dollars and time, mitigating overall project risk  
17 long-term.

18 (d) IT goods and services are complex and multidimensional.  
19 The implementation of new technology invariably impacts  
20 existing technology, dependent and independent IT systems,  
21 governmental business processes, operational expectations and  
22 outcomes, and future technical and operations choices for the  
23 functions of a governmental entity. Purchases, therefore, should  
24 be considered in the appropriate context with a total cost of  
25 ownership for the state.

26 ~~(e) IT services are not a commodity and cannot effectively be~~  
27 ~~purchased as a commodity.~~

28 ~~(f)~~

29 (e) New information systems that require IT goods and  
30 services for their implementation should be conceived in terms of  
31 a “solution.” Thinking and planning according to an IT  
32 “solution” mindset appropriately considers the complete set of IT  
33 goods and services required to complete an objective or set of  
34 objectives in the context of the actual business needs of the  
35 purchasing state agency. This also provides a means with which  
36 to consider the overall purchasing decision and weigh the  
37 benefits of different IT options according to the total cost of  
38 ownership for the state.

39 SEC. 2. It is the intent of the Legislature to enact legislation  
40 to reform the manner in which state agencies procure information

1 technology goods and services and to pursue these reforms in a  
2 manner that is guided by the following values and principles:

3 (a) Leadership, with a commitment to reform and prioritize the  
4 proposed reforms and to seek public input on proposed reforms.

5 (b) The development and maintenance of trust among  
6 participants and the public, within established ground rules and  
7 agreements, in the development and implementation of the  
8 proposed reforms.

9 (c) Openness in the presentation, evaluation, and identification  
10 of all goals and issues, in accordance with established ground  
11 rules, that are related to the development and implementation of  
12 the proposed reforms.

13 (d) Public involvement in a manner that educates and engages  
14 the public in the identification of problems and solutions  
15 associated with the development and implementation of the  
16 proposed reforms.

17 (e) Inclusiveness in the process, which includes the  
18 identification and inclusion of all affected stakeholders  
19 throughout all stages in the development and implementation of  
20 the proposed reforms.

21 (f) Commitment by the participants to obtain the agreement  
22 and commitment of the constituents of all participants.

23 (g) Timeliness, by establishing a timeline for the development  
24 of the reform process and the implementation of the proposed  
25 reforms.

26 (h) Uniformity in the administration of reform across all state  
27 departments and agencies.

28 (i) Consistency and regularity in procurement rules, policies,  
29 and guidelines that will apply equally to all state departments and  
30 agencies ~~and create a single state IT market.~~

31 (j) Public access to the procurement process, by posting the  
32 procurement rules, policies, and guidelines in writing at a single  
33 master location that is easily accessible by the public.

34 ~~SEC. 3. It is the further intent of the Legislature to enact~~  
35 ~~legislation that will provide a consistent framework in which to~~  
36 ~~consider and conduct new IT purchases, including the following~~  
37 ~~IT procurement checklist:~~

38 ~~(a) What is the legislative mandate or state business or~~  
39 ~~operational reason for the IT procurement?~~

~~(b) What are the existing business processes currently used to accomplish this state function or operation? If this is a new business requirement, what are the new business processes going to be? How do these business process requirements impact technical priorities?~~

~~(c) Given any constraints, what are the three most important priorities for the IT project to accomplish? What requirements can be postponed or eliminated without adversely limiting or changing the required outcome of the project?~~

~~(d) What current technology is used and how?~~

~~(e) Does the state agency or department have an existing technology platform? If so, how can the new project leverage the existing technology investment while accomplishing the assigned business objectives?~~

~~(f) What current or future business processes and technical dependencies will affect this proposed technology purchase?~~

~~(g) What existing state agency or department owns the data that will be used in this system? If the data comes from multiple sources, what existing business processes or technical systems produce and maintain the source data?~~

~~(h) Does the type of system desired already exist in the state? If so, what can be learned from the design and implementation of the similar system? What best practices or lessons can be applied to the new endeavor?~~

*SEC. 3. There is a consistent framework in which to consider and conduct new IT purchases, which shall include the following IT procurement checklist that the agency shall complete before bid documents are completed:*

*(a) Identify the legislative mandate or state business, or operational reason for the IT procurement.*

*(b) Identify the existing business processes currently used to accomplish the legislative mandate, state business, or operational reason.*

*(c) Identify the most important priorities for the IT project to accomplish.*

*(d) Identify what current technology is being used and how it is being used.*

*(e) If the data used in a proposed IT system comes from multiple sources, identify the existing business processes or*

1 *technical systems that produce and maintain the source data to*  
2 *ensure interoperability.*

3 *(f) Identify whether the proposed IT system is already being*  
4 *used by the state. If so, determine what can be learned from the*  
5 *design and implementation of the similar system.*

6 *(g) Identify how the new IT project leverages existing*  
7 *technology investments while accomplishing its business*  
8 *objectives.*

9 SEC. 4. Section 12104 is added to the Public Contract Code,  
10 to read:

11 ~~12104. In addition to the any other acquisition requirements,~~  
12 ~~all state agencies and departments must conform with the~~  
13 ~~“Information Technology Procurement Guidelines for Best~~  
14 ~~Practices.” The guidelines are as follows: All state agencies and~~  
15 ~~departments shall, when procuring IT, conform to the~~  
16 ~~“Information Technology Procurement Guidelines.” The~~  
17 ~~guidelines are as follows:~~

18 (a) All state agencies and departments ~~—must~~ shall  
19 communicate in writing all rules governing a specific  
20 ~~information technology IT~~ procurement process and all  
21 project-related business and technical requirements impacting the  
22 scoring and evaluation of that specific procurement. The rules  
23 and requirements shall be included in the published request for  
24 proposal (RFP). Any changes shall be communicated to all  
25 bidding vendors and shall be posted in a public location. No  
26 requirements *other than those provided by law* outside of the  
27 published RFP and posted addendums shall be used by the state  
28 to ~~justify competitive scoring score bids.~~

29 (b) ~~Any individual information technology procurement~~  
30 ~~process, from feasibility study report through contract award,~~  
31 ~~shall not exceed one state fiscal year.~~

32 (c) ~~Information technology solutions shall be procured~~  
33 ~~according to reasonable project phases that shall not exceed four~~  
34 ~~years in length under one contract.~~

35 (d) ~~Incumbent implementation vendors shall not be precluded~~  
36 ~~from delivering future project implementation phases of large~~  
37 ~~multiphased information technology projects provided that the~~  
38 ~~vendor has successfully delivered technology to the state on past~~  
39 ~~project phases, the delivered technology works according to~~

1 desired objectives, and the technology was delivered on time and  
2 within the given budget.

3 ~~(e) Each information technology solution phase shall be~~  
4 ~~developed into realistic project deliverables so that measurable~~  
5 ~~tasks and accomplishments can be tracked.~~

6 ~~(f) Each project deliverable phase shall be aligned with overall~~  
7 ~~business and operation objectives for the information technology~~  
8 ~~system and receive executive sign-off.~~

9 *(b) IT solutions shall be procured according to reasonable*  
10 *project phases.*

11 *(c) Incumbent vendors shall not be precluded from delivering*  
12 *future project implementation phases of large multiphased*  
13 *information technology projects provided that the vendor has*  
14 *successfully delivered technology to the state on past project*  
15 *phases, the delivered technology works according to desired*  
16 *objectives, and the technology was delivered on time and within*  
17 *the given budget.*

18 ~~(g)~~

19 *(d) Information technology procurements of six million dollars*  
20 *(\$6,000,000) or less shall be conducted according to*  
21 *deliverable-based contracts that align vendor payments with*  
22 *specific project deliverables. Deliverable or payment periods*  
23 *shall not exceed three months; specific project deliverables.*

24 *(e) For IT procurements over \$\_\_\_, the department shall*  
25 *require the names of all government clients that are currently*  
26 *being served by the bidders or have been served within the*  
27 *previous 36 months. The government clients may be used as*  
28 *references in scoring any bid proposal.*

29 *(f) The requirements of this section shall be in addition to any*  
30 *other requirement provided by law.*

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33 CORRECTIONS:

34 Text – Page 6.

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